

**CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL
REDEVELOPMENT AGENCY MEETING
MINUTES – FEBRUARY 19, 2003**

CALL TO ORDER

Mayor/Chairperson Kennedy called the meeting to order at 6:00 p.m.

ROLL CALL ATTENDANCE

Present: Mayor/Chairperson Kennedy, Council/Agency Members Carr, Sellers, Tate
Late: Mayor Pro Tempore/Vice-chair Chang

DECLARATION OF POSTING OF AGENDA

City Clerk/Agenda Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

City Attorney/Agency Counsel Leichter announced the following closed session items.

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant Exposure/Initiation of Litigation

Authority: Government Code Sections 54956.9(b) & (c)

Number of Potential Cases: 2

2.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Legal Authority: Government Code Section 54965.9(a)

Case Name: Morgan Hill Unified School District v. Minter & Fahy

Case No.: Santa Clara County Superior Court, No. CV 772368

Attendees: City Council, City Manager, City Attorney, Mark Strombotne, Special Counsel

3.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority: Government Code section 54956.9(a)

Case Name: City of Campbell et al. v. CalPERS

Case Number: OAH 5119

Attendees: City Attorney, City Manager

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/Chairperson Kennedy opened the closed session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor/Chairperson Kennedy adjourned the meeting to closed session at 6:02 p.m.

RECONVENE

Mayor/Chairperson Kennedy reconvened the meeting at 7:03 p.m.

CLOSED SESSION ANNOUNCEMENT

Mayor/Chairman Kennedy announced that there was no reportable action taken in closed session.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Mayor/Chairperson Kennedy, Chuck Dillmann, President of the City's Sister City Program, led the Pledge of Allegiance.

CITY COUNCIL REPORT

Council Member Tate reported on the following: 1) Second round efforts are underway to submit a Library grant application to build a new library in Morgan Hill. He said that the City submitted a first round application that was received well but that it did not score well enough to receive funding allocation. He indicated that the State looked at the City's memorandum of understanding (MOU) with the School District and it was stated that they did not see a real partnership in the application. He was pleased to report that the City has corrected the problem associated with the MOU between the Library, the School District and the City. He said that School Board Member Dale Foster has taken the lead in drafting a new MOU, improving upon the previous MOU. He indicated that another area that the application was deficient in was technology. He stated that County Library staff has put together a new technology section that highlights technology in place. He indicated that other members of the Library team now include our state legislators. He said that both Assemblyman John Laird and Senator Bruce McPherson have had personal conversations with their colleagues who serve on the Board who review and approve the Library funding allocations. Helpful feedback has been provided on how to improve the City's application. He was pleased to see that the City's partnership with the School District keeps getting stronger. 2) Measure P Update Status: He was impressed with the Measure P committee that has been put into place. He said that Committee members are working toward consensus. This has led to taking a little more time than the Committee wanted to take. He said that the Committee hopes to conclude its discussion by March 4 in order to forward a recommendation to the City Council. He said that the Committee has two more elements to review: 1) efficiencies in administering the process; and 2) achieving the State's fair share housing requirement. The Committee has agreed to make a recommendation on how to achieve the City's fair share housing requirement but that it has not come to an agreement on a specific mechanism on how the housing units would be allocated. He said that he was impressed with both the Library Grant Committee and the Measure P Update Committee and with the talent that can

be found in the community. These two committees are coming together as teams, achieving final results.

COUNCIL SUB-COMMITTEE REPORTS

Council Member Sellers indicated that members of the Downtown Task Force were hoping to have a final draft report ready by early February. He said that the work of the sub consultant took longer than what was expected, delaying the report. It is anticipated that by the end of February, the report will be completed and forwarded to the Planning Commission and to the City Council sometime in March.

CITY MANAGER'S REPORT

City Manager Tewes stated that he did not have a special report to present this evening.

CITY ATTORNEY'S REPORT

City Attorney Leichter stated that she did not have a report to present this evening.

PUBLIC COMMENT

Mayor/Chairperson Kennedy opened the floor to comments for items not appearing on this evening's agenda.

Chuck Dillmann informed the Council that he tries to sell real estate in town, indicating that a problem impacts the ability to sell real estate in the commercial and downtown areas. He said that there is an inability of a buyer to determine, without spending a significant amount of money, if what they are proposing would be allowed after they purchase property. Potential buyers do not want to take the risk and invest in the purchase of property without knowing if they will receive approval of their proposal. He suggested that a study be conducted by a task force on a process where a potential buyer can submit a narrative description and sketches of a proposal. After a week, the potential buyer can go to the committee to receive comments. He felt that this was a viable suggestion, if streamlined (1 to 2 week process), that would result in no or minimal expense to a potential buyer. He clarified that it was not the fees, per se, that is of concern but the amount of material that is required to support the application that would cost up to \$10,000 to prepare.

Ingrid Wafelbakker and Chris Schilling, representing Morgan Hill Relay for Life, indicated that last year, Morgan Hill took the Top Rookie Relay Award in California. The event netted \$128,000 for the American Cancer Society. She stated that it is a goal to net \$200,000 as a minimum this year. She invited the City Council and the City entity to fill a team this year. The date for the relay is May 3 and 4, 10 a.m. to 10 a.m. (24 hours) at Community Park. Individuals who are interested in participating are to contact Wendy Campus, team recruitment chairperson. She indicated that funds raised would be used to help with cancer research and cancer support.

No further comments were offered.

City Council Action

CONSENT CALENDAR:

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Chang, the City Council unanimously (5-0), **Approved** Consent Items 1 - 17 as follows:*

1. **JANUARY 2003 FINANCE & INVESTMENT REPORT**
Action: **Accepted** and **Filed** Report.
2. **PERFORMANCE MEASURE UPDATE – FEBRUARY 2003**
Action: **Received** and **Filed** Report.
3. **SECOND QUARTER REPORT, 2002-2003 WORKPLAN**
Action: **Accepted** Report.
4. **GMP METAL PLATING, INC. SEWER FEE FINANCING**
Action: **Directed** the City Manager to do Everything Necessary to Modify the GMP Metal Plating, Inc. Sewer Fee Loan Documents to Reflect Results Derived From the Monitoring Process.
5. **RESIDENTIAL DEVELOPMENT CONTROL SYSTEM AMENDED FOURTH QUARTER REPORT FOR 2002**
Action: **Accepted** and **Filed** Amended Fourth Quarter Report for 2002.
6. **PURCHASE OF VEHICLES**
Action: 1) **Authorized** Vehicle Purchases Through the State of California General Services Procurement Process for the Vehicles Identified in This Report for a Total Cost of \$111,124.00; and 2) **Declared** Vehicles on Itemized Spreadsheet as Surplus and **Authorized** Sale at Auction.
7. **FINAL MAP ACCEPTANCE FOR MISSION RANCH PHASE VI (TRACT 9424)**
Action: **Approved** the Final Map.
8. **FINAL MAP ACCEPTANCE FOR COYOTE ESTATES PHASE VII (TRACT 9461)**
Action: **Approved** the Final Map.
9. **APPROVAL OF SUBDIVISION IMPROVEMENT AGREEMENT WITH T.K. AND PARMINDER SINGH**
Action: 1) **Approved** Subdivision Agreement and Improvement Plans; 2) **Authorized** the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; and

3) **Authorized** the Recordation of the Map and the Subdivision Improvement Agreement Following Recordation of the Development Improvement Agreement.

10. **AMEND PROFESSIONAL SERVICES AGREEMENT FOR ACQUISITION SERVICES FOR CUTLER AND ASSOCIATES FOR TENNANT AVENUE WIDENING**

Action: 1) **Approved** Additional Scope of Work for Cutler & Associates in the Amount of \$9,000; and 2) **Authorized** the City Manager, subject to approval as to form by City Attorney, to Execute an Amendment to the Existing Professional Services Agreement for Right-of-Way Acquisition Services for the Tennant Avenue Widening Project. The Total Amended Professional Services Agreement Shall Not Exceed \$26,500.

11. **APPROVAL OF RIGHT-OF-WAY PURCHASE AGREEMENTS FOR TENNANT AVENUE WIDENING (APN: 817-04-004 AND 817-04-005)**

Action: 1) **Approved** Purchase; and 2) **Authorized** the City Manager to Execute Purchase Agreements, subject to approval as to form by City Attorney, with the Owner of APN's 817-04-004 and 817-04-005 for a Total Compensation of \$55,000, Plus Escrow and Closing Costs for the Acquisition of These Two Properties.

12. **COUNCIL RESOLUTION SUPPORTING GRANT FUNDING FOR A SEGMENT OF LLAGAS CREEK TRAIL, BETWEEN LA CROSSE AND WATSONVILLE ROAD – Resolution No. 5642**

Action: 1) **Adopted** Resolution No. 5642, Supporting a Segment of Llagas Creek Trail as the City's 2003-2004 Transportation Fund for Clean Air (TFCA 40%) Project Candidate; and 2) **Appropriated** 10%, or \$15,000, From the Unappropriated Street Fund Balance (2002) for this Project.

13. **ACCEPTANCE OF PUBLIC IMPROVEMENTS FOR VILLA CIOLINO HOUSING PROJECT – Resolution No. 5643**

Action: 1) **Adopted** Resolution No. 5643, Accepting the Public Improvements for Villa Ciolino Housing Project; and 2) **Directed** the City Clerk to File a Notice of Completion with the County Recorder's Office.

14. **COUNCIL RESOLUTION CONFIRMING CITY COUNCIL ADOPTION OF 2001 BIKEWAYS MASTER PLAN – Resolution No. 5644**

Action: **Adopted** Resolution No. 5644, Thereby Confirming City Council Adoption of January 2001 Bikeways Master Plan at the July 25, 2001, City Council Meeting.

15. **EMERGENCY AUTHORIZATION FOR WATER MAIN REPLACEMENT ALONG RUSTLING OAK COURT – Resolution No. 5645**

Action: 1) **Adopted** Resolution No. 5645, Declaring the Need for This Emergency Expenditure; and 2) **Approved** Expenditure of \$25,000 from the 2002-2003 Public Works – Water Division Operating Budget; and \$40,000 from the 2002-2003 CIP – Water Replacement Budget to Fund an Emergency Water Main Replacement on Rustling Oak Court.

16. APPROVAL OF PURCHASE ORDER FOR CONSTRUCTION OF THE PUBLIC WORKS OFFICE EXPANSION AND REMODEL PROJECT

Action: *Authorized the City Manager to Execute a Purchase Order in the Amount of \$76,400 with Link Construction Company, Inc. for Work on the Public Works Office Expansion and Remodel Project.*

17. ADOPT ORDINANCE NO. 1604, NEW SERIES

Action: *Waived the Reading, and Adopted Ordinance No. 1604, New Series, and Declared That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by title and Further Reading Waived; Title as Follows: An Ordinance Of The City Council Of The City Of Morgan Hill Amending Section 17.32.160 (Improvement Agreement–Preparation–Contents) And Adding Section 17.32.165 (Improvement Agreement-Reimbursement Provisions) Of Chapter 17.32 (Improvements And Improvement Agreements) Of Title 17 (Subdivisions) Of The Municipal Code Of The City Of Morgan Hill Regarding Reimbursement Agreements With Developers For Public Improvements.*

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Council/Agency Member Tate and seconded by Mayor Pro Tempore/Vice-chair Chang, the City Council/Agency Board unanimously (5-0) Approved Consent Items 18 -20 as follows:*

18. JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF JANUARY 24, 2003

Action: *Approved the Minutes as written.*

19. JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF JANUARY 29, 2003

Action: *Approved the Minutes as written.*

20. JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF FEBRUARY 5, 2003

Action: *Approved the Minutes as written.*

City Council Action

OTHER BUSINESS

Action: *As public hearings are scheduled to be held at 7:30 p.m., the City Council unanimously (5-0) agreed to consider items 24 and 28 at this time.*

24. DISCUSSION OF PHASING FOR COMMERCIAL PLANNED UNIT DEVELOPMENT (PUD)

It was noted that a request was received by the representative of the property owner(s) to continue this item to late March or the first meeting in April.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0), **Continued** this item to April 2, 2003.*

28. AMEND CHAPTER 2.56 – ARCHITECTURAL AND SITE REVIEW BOARD (ARB) REGARDING EXTENSION OF TERMS OF OFFICE AND APPOINTMENT TO ARB Ordinance Nos. 1607 and 1608, New Series

Mayor Kennedy addressed the request to amend the ordinance to facilitate recruitment and appointment of ARB members to coincide with the recruitment/interviews of the Planning Commission.

Council Services & Records Manager Torrez informed the Council that staff will be returning with a staff report requesting that the Council extend the terms of the ARB to coincide with the terms of the Planning Commission, should the Council agree to adopt the ordinances.

Council Member Carr recollected that at the time the Council approved the establishment of the ARB, the Council did so with the idea that it would review the effectiveness of the ARB. He inquired whether it would be an appropriate issue to discuss in the near future. He said that it appears that the City is having trouble recruiting individuals to serve on this Board. He stated that one of the primary reasons the Council formed the ARB was to put together an architectural review handbook, noting that the handbook has not been completed. He recommended that the Council consider whether the City needs an ARB. He questioned the effectiveness of having this board when the make up of the Board is partially filled.

Council Member Sellers said that should the Council agree to extend the terms of the current ARB members to June 1, the Council would have time to have this discussion.

Mayor Kennedy suggested that the Council proceed with the action and that staff agendize this discussion for a future meeting.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Chang, the City Council unanimously (5-0), **Waived** the Reading in Full Ordinance No. 1607, New Series.*

Action: *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0), **Introduced** Ordinance No. 1607, New Series,*

by title only, as follows **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTION 2.22.010 (Establishment of boards and commissions) OF CHAPTER 2.22 (Master Provisions for Boards and Commissions) OF TITLE 2 (Administration and Personnel) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL REGARDING BOARDS AND COMMISSIONS AND EXTENSION OF APPOINTMENTS THERETO** *by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

Action: *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0), **Waived** the Reading in Full Ordinance No. 1608, New Series.*

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (5-0), **Introduced** Ordinance No. 1608, New Series, by title only, as follows* **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTION 2.56.030 (Terms of office) OF CHAPTER 2.56 (ARCHITECTURAL AND SITE REVIEW BOARD) OF TITLE 2 (ADMINISTRATION) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL REGARDING TERMS OF OFFICE FOR ARCHITECTURAL AND SITE REVIEW BOARD MEMBERS** *by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.*

Council Member Tate requested that the Council be presented with an overview of the architectural review handbook and how it would simplify the decision making process.

Director of Community Development Bischoff informed the City Council that the architectural review handbook is underway. Staff has received and presented portions of the draft handbook to the ARB. He said that the ARB is looking for guidelines that tend to be more general, in nature. He said that Maximus, the consultant retained to conduct a performance audit for the City's development processing systems, highly recommended that the City adopt standards that are more definitive as opposed to general language that would be difficult to follow. He said that significant progress has been made in terms of developing the handbook. Whether an ARB is in place or not, he felt that it was important and a useful tool for the City to have an updated handbook. He informed the Council that the City has also had problems with the consultant. He said that City staff was looking for something specific and tailored to the City's needs. What staff found, in the first draft, was a cookie cut approach that would be equally applicable to other cities. With respect to the ARB, he said that the Council did request an update on the performance of the ARB at time of implementation, in terms of applications they have reviewed, the length of time it took to review applications, etc. He said that this report is scheduled to be presented to the Council in March. He acknowledged that the City has had difficulty filling vacancies on the board.

PUBLIC HEARINGS:

21. EXCEPTION TO LOSS OF BUILDING ALLOCATION, ELBA-03-01: EVENING STAR – BRISACHER – Resolution No. 5641

Community Development Director Bischoff presented the staff report.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0), **Adopted** Resolution No. 5641, Granting an Exception to Loss of Building Allocation and Approved a Two-year Extension of Time.*

22. DEVELOPMENT AGREEMENT AMENDMENT DAA 00-12: EAST DUNNE-GREWAL – Ordinance No. 1605, New Series

Mayor Pro Tempore Chang recused herself from this item and stepped out of the Council Chambers.

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy noted that there is a lot of flooding occurring at the Dunne/Hill intersection. It was his hope that this project would help correct some of the flooding problem, noting that the problem is that the water is not crossing Dunne Avenue into Correlitos Creek.

Director of Public Works Ashcraft said that should the project move forward, it would install a 48-inch pipe that would connect to Correlitos Creek, and would carry water away from the area, cutting across Dunne Avenue. However, it would not eliminate flooding at the Dunne/Hill intersection but that there would be a benefit to drainage on Dunne Avenue if the project moves forward. He said that the cost is such that the City would have to include some storm drain impact fees as the City could not require a developer of four lots to construct the entire storm drain system.

Mayor Kennedy opened the public hearing.

Pritam Grewal, applicant, said that every time he wants to speed up the project, something comes up. He said that he was anxious to finish the project.

No further comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Mayor Pro Tempore Chang Absent, **Waived** the Reading in Full of Development Agreement Amendment DAA Ordinance No. 1605, New Series.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Mayor Pro Tempore Chang Absent, **Introduced** DAA Ordinance No. 1605, New Series, by title only, as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1576 TO AMEND THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-00-02: EAST DUNNEGREWAL TO ALLOW FOR A ONE YEAR EXTENSION OF TIME (APN 728-11-026) by the following roll call vote: AYES: Carr, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Chang.*

Mayor Pro Tempore Chang resumed her seat on the dais.

23. GENERAL PLAN AMENDMENT APPLICATION: GPA 02-05/URBAN SERVICE AREA APPLICATION: USA 02-03/ ZONING AMENDMENT ZA 02-14 AND ANNEXATION APPLICATION ANX: 02-03: CONDIT-CITY OF MORGAN HILL AQUATIC COMPLEX – Resolution Nos. 5646, 5647 and 5648 and Ordinance No. 1606, New Series

Director of Community Development Bischoff presented the staff report. He indicated that Judy Shanley and Demetri Loukas with David Powers & Associates and Jason Pack with Fehrs and Peers who helped the City prepare the environmental study were in attendance to answer any questions that the Council may have.

Mayor Kennedy opened the public hearing.

Mark Grzan expressed concern regarding the negative declaration as a number of things discussed in the document were not clear. However, he stated that he has assurances from Mr. Bischoff that they will be addressed in the final project. One concern is the overpass at Tennant as he envisions a significant amount of pedestrian traffic on the overpass coming from the residential areas adjacent to Barrett School. Although it is being proposed to install traffic lights at the intersections, he did not believe that the overpass protects pedestrians on both sides of the overpass as sidewalks have not been installed. He hopes that as part of this project, the entire access to the project contains safety measures for pedestrians all the way to the aquatics site. He stated that he has a number of concerns relating to the response plan and/or plan for mutual aid in the event of a catastrophe at the aquatics center. He indicated that the aquatics center will hold a number of toxic chemicals and that it is his hope that there are containment areas and that there is a good plan for mutual aid in place. He expressed concern with the Negative Declaration as it is stated that there will be 7 competitive events to be held over the summer and that the window for summer aquatics programs is 12 weeks. He said that with 7 competitive events occurring over the summer weekends, the facility would not be available for recreational uses. Therefore, 60% of the summer use for the public would be excluded. He said that the City needs to weigh the affects of a competitive event versus the loss of revenue dollars. He indicated that he serves as a finance manger for the County of Monterey and that this City is looking at 25% cuts in the general fund. He is also the finance manager for Emergency Communications and questioned which 911 call would not be answered. He requested that the Council take a look at the financial situation and

the long term affect of all the projects in the community.

Gino Azevedo stated his support of the aquatics center. He concurred with a lot of what was stated by Mr. Grzan, but that he was confident that when the City administers the center, the management team will take care of a lot of the concerns. With regards to the competitive events during the summer months, he said that it is anticipated and envisioned that recreational activities would occur concurrently with the competitive events. He said that there would be some inter mingling of competitors with regular recreation users but that he did not believe that this was anything to be concerned about. He felt that if a problem should occur, it can be dealt with. He said that the organizers of competitive events pay for the use of the facility and therefore would not result in loss of revenue.

Cindy Azevedo stated her support of the aquatics center. She did not believe that the competitive aspect of the facility would interfere with the general public and youth using the recreational component of the facility. She said that not all of the competitive events would be held during the summer months as events take place throughout the year. She said that competitive and recreational uses are typically coordinated. She appreciated the work that has gone into the aquatics center and was pleased that the Council had the foresight to design the facility that would benefit the youth and others.

No further comments being offered, the public hearing was closed.

Council Member Sellers noted that reference was made to the overpass at Tennant Avenue and the potential for increase in pedestrian traffic. He also noted that there are no sidewalks from Barrett Avenue to the site. He felt that this would eliminate or significantly deter anyone from walking to the site. He inquired whether there were any plans to increase or improve pedestrian access to encourage and/or allow for pedestrian traffic to and from the site.

Director of Community Development Bischoff did not believe that the lack of sidewalks was viewed as a potentially significant impact. He did not believe that it was anticipated that there would be a number of individuals walking to the facility. He acknowledged that the overpass does not have sidewalks and that he was not aware of any plans to install sidewalks until such time that the overpass is widened. He felt that there was sufficient room to stripe the overpass for bicycles but not wide enough to provide pedestrian access

Director of Public Works Ashcraft said that there are no immediate plans to install sidewalks on the overpass and that installation of sidewalks would occur when the overpass is widened. He said that Caltrans evaluated the structure when it was built and found that there was not enough pedestrian use to justify the installation of sidewalks. He said that the project is not envisioned to increase pedestrian traffic substantially. He concurred that the pavement width is not wide enough from the overpass to the aquatics center to have bike lanes, noting that this is not a part of the project. He said that most of the widening of the curbs, gutter and sidewalks occurs as properties develop, noting that there are still a lot of undeveloped properties in the area.

Mayor Kennedy inquired whether temporary pedestrian measures could be undertaken as part of

the project (e.g., striping at non standard width or temporary walking path) until the permanent project is completed?

Ms. Ashcraft said that he would investigate Mayor Kennedy's suggestion for temporary measures, noting that the bridge structure would minimize the potential for safe pedestrian measures. He was not sure if the width of the bridge would allow for bicycle and pedestrian access.

Council Member Sellers felt that a solution would be to encourage cyclist and pedestrian to use Dunne Avenue as it is paved for bicycle and pedestrian use.

Council Member Tate noted that this is a request to include the aquatics site into the City. He indicated that he has expressed opposition in the past to the immediate opening of the aquatics center because of the current financial situation. He was not sure if he was in agreement with the prioritization of the funds and whether the City could afford to earmark as much of the funds being counted upon for this project. However, he felt that it would be good planning to bring the lands into the City and get it ready for development. Therefore, he was supportive of the recommended actions.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0), **Adopted** the Mitigated Negative Declaration.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0), **Adopted** Resolution No. 5646. Approving the General Plan Amendment.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0), **Adopted** Resolution No. 5647, Approving an Amendment to the Urban Service Area Boundary.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0), **Waived** the Reading in Full of Prezone Ordinance No. 1606, New Series.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0), **Introduced** Prezone Ordinance No. 1606, New Series, by title only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL PRE-ZONING 8.8 ACRES, FROM COUNTY A-20 TO PUBLIC FACILITY, APPLICATION ZA-02-14 (PORTION OF APN 817-13-017) by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.***

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0), **Adopted** Resolution No. 5648, Approving the Annexation.*

OTHER BUSINESS

25. NEW MORGAN HILL POLICE FACILITY

City Manager Tewes presented the staff report. He indicated that the existing police facility is insufficient for the current staff and clearly insufficient for the build out population in the year 2020. He said that the values the Council may wish to think about are: the importance of the centrality of the building, its civic presence, its size, would there be more space than needed, its cost and the speed to which the City could accomplish completing a new facility. He said that there would be an impact to the general fund to the extent that the project is accelerated. He noted that the Council was provided with information regarding other available industrial buildings this evening. He indicated that staff has been looking at a site in the central part of the community, preferably to be co located on Butterfield, adjacent to the courthouse. He said that it has become increasingly clear that the courthouse requirements are either going to require the entire site or so much of the site that little land would be available for a police station. He did not believe that this alone was a reason to abandon the CIP alternative because there are other potential sites that could be used should the City wish to pursue this particular option. He requested that the Council identify which path it would direct staff to pursue: 1) an existing industrial building path, or 2) the current CIP approach (new construction).

Mayor Kennedy opened the floor to public comment.

Bob Dwyer stated that he is the co owner of the 16200 Vineyard Boulevard facility being considered for the relocation of the police department. He said that the building was built to suit for a company that ran into financial troubles following 9-11 and backed out of the transaction. He noted that the building has been described as a warehouse or an unfinished shell. He said that the building is a large, state of the art, light industrial building and is 40% built out as office space. In addition, all public works fees have been paid. He stated that the building is ready for occupancy in its current condition once the doors are hung and the floor coverings are installed. He felt that the building would be a good value to the City as a lot of the improvements have been completed. He stated that an advantage to this building is that it provides the City with a new 23,000 square foot police facility, a 1,300 square foot emergency operation center at the south entrance, a 7,500 square foot office space area for another city use at the north entrance, and a 12,000 square foot production area to the rear of the building to be used initially for interior parking of police vehicles that can be used for growth. He indicated that another advantage of the building is that it would allow the police department to be in their new facility this year, not 3-4 years from now. He was confident with the budget numbers based upon the current floor plan. Should the Council decide to move forward with this building, he recommended that his partner, Mark Branham, be included in the process as he built the building and has experience in value engineering that could save the city additional dollars. He said that he is open to working with the City on a lease, sale or a lease with an option to buy if this should prove to be beneficial to the City. He proposed a lease/buy option because it would allow him to construct improvements immediately and sell the completed project to the City when it is ready to purchase it.

Gino Acevedo, owner of El Toro Brewing Company, informed the Council that he has been looking for a site to locate a brew pub in the downtown area for five years. He is looking for a site that is at least 5,000+ square feet, noting that the downtown does not have a site of this size available. He is proposing a family style restaurant-pub with entertainment to be held in the evenings. He stated that the site of the existing police department would be his number one choice if it becomes available soon as it has plenty of parking, includes landscaping, and has a view of El Toro Mountain. If the facility becomes available, he would commit to do everything possible to locate a brew pub at the site. Given the type of draw he believes would occur, the brew pub would become an anchor to the downtown, resulting in other businesses wanting to locate in the downtown. He said that every single sale that is made is taxed as retail; therefore, the restaurant would be a retail type business and would result in high revenue dollars. He indicated that his family is active in the community and that as a downtown business; the family would be active in the downtown business community as well. He recommended that the Council approve moving the police station sooner rather than later and that the Council assist him to locate in the old Morgan Hill police department.

City Manager Tewes said that one of the advantages of the Vineyard facility is that it would allow the City to remarket the existing property earlier. However, he is hoping that the Council is not making the decision based on Mr. Acevedo's representation as the City would have to go through a competitive process and evaluate all proposals based on law.

Cindy Acevedo said that it has been the family's desire to locate a family style restaurant-brew pub in Morgan Hill. She sees the relocation of the police department to an existing facility as a benefit to the community and the police department. She requested that the Council move sooner rather than later, saving the money that would result in the difference in properties. This would provide two benefits to the community: 1) a new restaurant in the downtown that would be an anchor or draw, creating retail sales and tax dollars for the community, and 2) a larger and provides an improved police facility at an earlier date.

Mark Brazeal, President of the Morgan Hill Police Officers Association, acknowledged that this decision comes in difficult financial times. However, it was his belief that the Vineyard site offers certain benefits which makes the decision easier. The site offers an attractive lease to buy option and has excellent curb site appeal for a civic building. It affords excellent functionality for a police building and it offers a \$3 million savings over new construction. As the Vineyard facility has many merits, the building could also be sold at a profit years down the road if in the future a more attractive civic option presented itself. He noted that no other site is seriously being considered. Other sites would require significant improvements or there would be a need to exercise the use of eminent domain. He requested that the Council move forward with this option as it is the most viable option being presented at this time.

No further comments were offered.

Mayor Kennedy inquired if there were any other departments that could use the additional 7,500 square foot space?

City Manager Tewes said that staff would not be recommending any existing city departments to use the facility as this space would be insufficient for public works engineering staff. It is staff's hope that the engineering staff would relocate to the civic center site. He was not aware of any other specific tenant that could use the remaining space, but that it would be important, as part of the marketing strategy, to plan for another community group (e.g., non profit group).

Council Member Sellers said that as a resident and advocate for the downtown area, he has given a lot of thought to the location of the police department and the surrounding neighborhoods. He said that the police department's presence is seen in the downtown and has some impact on what is already the highest crime area of Morgan Hill. Should the police department be relocated, he inquired how the City would maintain a downtown presence?

Chief of Police Galvin said that he would like to see a civic center facility at the Albertson center. However, this would not be a viable alternative for years. He said that 5 out of 9 police departments in Santa Clara County are located in areas that are not considered mainstream downtown areas. Therefore, the presence of a police department is not important. He agreed that the downtown is a special place and that the police department can do a lot of things to maintain its presence. He said that this is not an easy decision or recommendation that he has had to make to the Council. His instincts would be to long term plan and design a building specifically for the needs of this community. However, an opportunity has been presented to proceed with a facility that would be inexpensive when you look at the cost to construct a new police facility. He said that originally, a new 18,000 square foot facility was being proposed that would last to the year 2020. He felt that this square footage was too small and that the plans were revised to increase the square footage to accommodate an expanded evidence and property space and enclosed parking to afford security for officers and prisoners. He indicated that evidence material is currently being stored at three different locations. This site would allow the evidence material to be stored in one location. In reviewing all information, he felt that it would be best for the City to proceed with the Vineyard site.

Council Member Tate acknowledged that the current 10,000 square foot police facility was not efficient and felt that the design of the Vineyard facility would be more efficient, translating into effectiveness of the police force.

Chief of Police Galvin said that the Vineyard site would afford the police department things that are lacking in the current facility such as an adequately sized emergency operation center. He said that he has approached the Sheriffs office, the probation department, and fire administration to seek their interest in using the excess square footage. However, at this point, the City has not found a compatible tenant but that there is an opportunity to do so. He said that it would be efficient to have the evidence and the emergency operation center designed to meet the needs for the City. He felt that emergency situations can be dealt with in a more effective and efficient manner in a new facility than it would be in the current facility. Also, it would expand the police department's communication capability.

Mayor Pro Tempore Chang said that if the City was not in a financial crisis, she would agree to move forward with a new police facility, using the reserve funds. However, she indicated that the vehicle license fees do not look promising. She inquired how the police personnel would take

potential layoffs and/or no salary increases.

Chief of Police Galvin said that in his 27 years as a chief of police, he has never had to lay off police officers. It was his understanding that the Morgan Hill police department has experienced layoffs. He indicated that the scars of the layoffs still exist. He said that the police department would provide services to the City no matter what facility it is located in but that police officers are needed to provide this service. He said that the police department has to be equipped, compensated and provided with a facility. He said that layoffs would be devastating to the City and to the police department as occurred 12 years ago.

Council Member Sellers said that the Council will be looking at four or five different factors that a year from now will have significant impacts. He noted that the Council considered the aquatics center earlier this evening. Should it remain on track and open next fall, it would increase the City's budget. He noted that the City would be negotiating employee contracts this upcoming year and that negotiations will impact the budget. Also, the state's situation would also impact city resources. He felt that all these factors need to be looked at. He said that when the state adopts its budget, the City would have a better understanding of the numbers. Should the City proceed with considering the Vineyard facility or another existing facility, he did not believe that the City would conclude negotiations before fall 2003. He agreed that a decision needs to be made sooner rather than later. However, he felt that it was important to make a decision after the Council has received a clearer picture of its financial situation. He recommended that the City proceed with negotiations for the best site. He requested that something be done to reference the police presence in the downtown area. It was his belief that having police visibility has benefits. He felt that the lease purchase option could be very attractive. Considering a lease purchase for 18 months to 2-3 years with an option to buy preserves the City's flexibility and would minimize some of the capital outlays that the City would otherwise have to incur if the City was to acquire the site sooner. He stated that he would like to incorporate the following: 1) encourage Morgan Hill companies to help build the facility; 2) prevailing wages to be considered; 3) identify use(s) for the excess space as part of the negotiations before the City proceeds; 4) review options for the existing Main/Monterey building as part of this process. He said that the Main/Monterey facility is a crucial part of the downtown and that prolonged vacancy of the facility would be highly detrimental to the entire downtown community. He felt that the City needs to do what it can to explore alternative uses. He did not believe that the Council needs to identify the Vineyard site this evening. He was comfortable in proceeding with looking at the Vineyard facility as well as other viable existing buildings based on the inadequacy of the current police facility.

Mayor Kennedy stated that ideally, a new facility designed to meet the police department's needs would be desirable. However, the City has an opportunity that has presented itself and that the City should move forward with it. He felt that the downside risks would be minimal and that it would offer opportunities that are desperately needed (e.g., space for growth). He said that the existing facility is at an absolute minimum to be able to handle the police department activities. He said that the 7,500-8,000 square foot surplus space could be leased to another agency to reduce the City's subsidy. He felt that the purchase of the facility with a large capital investment would be the best way to proceed in order to minimize the annual operating expenditures. He said that in this scenario the annual cost would be \$199,000. If you deduct rental of the space for

\$140,000, there would be a net loss of \$50,000 per year. He felt that this solution would be a minimal risk with a high return to the community. He encouraged the Council to move forward with this facility without delay.

Council Member Carr inquired whether the current site would be placed on the market or whether there would be an identified civic use for the site.

City Manager Tewes indicated that the existing site is owned by the Redevelopment Agency and not the City. Law requires a process on how to dispose of property owned by the Redevelopment Agency. The City would need to come up with a competitive process to evaluate proposals. He was not aware of any current civic uses for the site and did not believe that it would make a good civic use. He said that the competitive process would allow the City to evaluate specific proposals that might meet redevelopment objectives. He said that it may be possible that the Redevelopment Agency might get a net return. However, he could not tell the Council what the effect on the Redevelopment Agency would be until staff reviews specific proposals. He indicated that a number of individuals have asked why the City cannot purchase a building with the use of Redevelopment Agency funds as these funds were used to purchase the existing police facility. He stated that at the time the Redevelopment Agency purchased the bank building, it was lawful to do so. However, the law changed in 1992 and does not allow purchase of buildings to be used for a police facility.

Council Member Carr noted that other property owners have come forward requesting that the Council explore other buildings. He was wondering whether the City should be thinking about some type of process to review other buildings in town that may be equally as advantages as the Vineyard site. He was not sure whether there other property owners were aware that the City was searching for a building. He felt that there may be a way that the City could communicate to other potential building owners that the City may be interested in other sites.

City Manager Tewes said that staff informally spoke with brokers and agents who represent properties to try to determine whether existing sites were available. He said that staff has not made a formal effort to send an RFP for land/facility to make proposals and that staff could do so. However, it was his belief that staff has a good sense of existing vacant space and whether or not it would be reasonable to consider them.

Council Member Tate views this as an opportunity that has come along and that the City should take advantage of the proposal as quickly as possible. He said that a top priority to him, in terms of serving the City, is public safety. He did not believe that the existing facility was tolerable anymore. He felt that the City has an opportunity to move quickly into a situation that would cost less money. He understood that it would cost the City more money sooner but that there is an issue of public safety and where the City's priority properly belongs. He agreed that there could be offsetting items that could be agreed upon as part of the negotiations. He said that City staff and the partners of the building are working toward designing the facility correctly to make sure that it works well. He felt that negotiations are open to see how the City would structure the financial points of the negotiations. He agreed that the City should move forward with this building as quickly as possible.

Mayor Pro Tempore Chang noted that the City rented out a portion of the Community and Cultural Center to Gavilan College and that the monies received from Gavilan College are being put back into the general fund. She recommended that the proceeds from the sale/rental of the existing police facility go toward the general fund to offset some of the general fund deficit that may be experienced.

City Manager Tewes noted that the existing police facility is an asset owned by the Redevelopment Agency. He clarified that Gavilan College was built by the Redevelopment Agency and was given to City government for a public purpose. It was his belief that any income from the sale of the existing facility must go back to the benefit of the Redevelopment Agency. He clarified that the Redevelopment Agency could sell a facility to the City for a city purpose, but not a private purpose.

Mayor Pro Tempore Chang noted that the existing facility could be leased versus being sold. She said that it appears that there may be various ways to generate additional funds.

Council Member Sellers recalled that when the City acquired the police facility a number of years ago, it was controversial. One of the controversies stemmed from the fact that the building was deemed to be a white elephant that Bank of American was trying to dispose. No one was interested in the building so they pursued the City to purchase it. He said that the resale value of an existing facility should be another factor to consider. He felt that it would be an attractive option to be able to have a building that the City could sell that would be beneficial to the general fund.

Action: *Council Member Sellers made a motion, seconded by Council Member Carr to **proceed** with the consideration of acquiring the existing facility along with other sites within the parameters that have been identified by the Council this evening.*

Council Member Tate and Mayor Kennedy supported moving forward with the Vineyard site and not consider other options. Mayor Kennedy said that he would support looking at alternative sites if it can be done concurrent with discussions and negotiations with Mr. Dwyer and Mr. Nicholson. However, not to the extent that it would delay moving into an existing facility.

Council Member Sellers said that he did not know if it would make sense for the Council to consummate an agreement before the fall because all issues need to be factored in. He recommended that a timeline be included.

Mayor Kennedy and Council Member Tate felt that waiting until the fall to make a decision would be too late.

Mayor Pro Tempore Chang said that based on the budget presented this evening, the City could deplete its reserves in three years. She noted that the Council does not know what next year's budget forecast would be. She felt that the Council needs to be cautious in its investigation.

Mayor Kennedy requested that staff clarify how the lease-purchase option would work in this case.

City Manager Tewes said that he was not aware of the specifics that are being proposed. He said that staff would evaluate the terms that are being presented.

Council Member Carr felt that the Council needs to review the different financial options based on the current budget. He did not know if waiting to make a decision makes sense as staff is seeking Council direction.

Council Member Sellers stated that he was comfortable in proceeding with negotiations for the Vineyard site. However, he did not believe that there would be a significant delay in exploring other possibilities. If staff finds that there is an alternative site that would be attractive, staff should return to the Council as soon as possible. If it turns out that in June, the City does not know what the state budget will be and has not concluded its negotiations with the contract; he would be comfortable in making a decision at a later date. He said that it may be the case that the Council will have the answers to all the questions by June and that the City can move forward with relocating the police facility. Therefore, he would be comfortable with the motion without including a timeline.

Mayor Pro Tempore Chang felt that the proposal was a great concept. However, she felt that it would be prudent to include all other properties in the mix to place the City in a better bargaining position.

City Manager Tewes said that staff can return to the Council with identified alternative sites in two weeks. The question of evaluating the financial options is one that would relate to the negotiation with the eventual building that is selected by the Council. He did not recommend that the Council decide on a building based on the financial options but that the Council decides which building it would like to pursue. Staff would return with the best financing solution for the identified building. Should the Council approve the motion on the floor, it would give staff direction not to spend any more time trying to locate a site for a new facility.

Mayor Kennedy asked Mr. Dwyer if he would be willing to give the City more time, if needed.

Mr. Dwyer said that he would agree to give the City more time to negotiate for the building but that he could not wait forever. When looking at other buildings, he recommended that the Council compare apples to apples. If the City looks at a 20-year old facility, the seismic retrofit costs would be enormous. He said that the value in his building is that the land price is fair and that it is a top quality building with a lot of inherent value. He felt that he could be competitive on a lease but that it may make sense to buy the facility outright. He stated that he is opened to this option as well.

Mayor Kennedy recommended that the Council move forward with the Vineyard site with the understanding that the motion directs staff to investigate other alternate sites.

Council Member Carr clarified that the Council is not asking for a formal RFP process. He recommended that a dual track be pursued: 1) looking at different financial options for the Vineyard site; and 2) investigate other sites that may be available. He inquired if these two tracks could be brought back to the Council so that the City does not lose time talking about the financial options for the Vineyard site in case this is the direction that the Council ends up taking.

Council Member Sellers felt that the Council owes it to the public to make sure that when someone asks whether the building selected was the best building, the Council could say yes. He supported a concurrent track.

Action: *Council Member Sellers made a motion, seconded by Council Member Carr, to **amend** the motion and **directed** staff to move forward with two tracks: 1) staff to identify other existing buildings that might serve as a police station. Staff to report back to the Council in the first meeting in March; 2) staff to begin discussions with the owners of the Vineyard building on how the City might structure a transaction that would lead to its eventual acquisition. In the negotiations with the property owners, the following are to be taking into consideration: 1) prevailing wages, 2) local Morgan Hill companies to be involved, and 3) identify potential tenants for the 8,000 square foot surplus area.*

Council Member Sellers clarified that he would agree to expedite the dual track process, understanding that it may be that there may be an agreement on the table that he may not be comfortable executing based on budget issues/factors.

Mayor Pro Tempore Chang stated that she would like to proceed as soon as possible. However, she would like to have a comfort level when the City agrees to sign a purchase agreement.

Vote: *The motion carried unanimously (5-0).*

Redevelopment Agency Action

OTHER BUSINESS

26. SANTA CLARA COUNTY'S MORGAN HILL COURTHOUSE PROJECT

Director of Business Assistance and Housing Services Toy presented the staff report. He requested that the Agency Board provide guidance regarding the desire to locate a facility on the site. He noted that the Board gave staff direction to look at an existing facility for a police station earlier this evening. He said that an alternative use of the site would be to locate a fire station on the site, but that this would depend on the surplus property available. Once staff receives elevations and schematic design, the City would comment on the project in relation to the guidelines approved for the project (e.g., pedestrian access to pedestrian crossings, connection to downtown, meeting design standards). He informed the Board that staff recently received the draft EIR document and that staff would be preparing comments on the document. He indicated that representatives from the County were in attendance to answer questions the Council may

have.

Chairman Kennedy opened the floor to public comment.

Alicia Flynn, project manager for the Morgan Hill Courthouse, indicated that she was present to address any questions that the Board may have on the project. In response to Chairman Kennedy's inquiry, she indicated that approximately 1-1.5 acres would be needed for an on site storm water detention facility.

Chairman Kennedy stated that at some point, the federal flood control project (PL5665) would be completed and that the City would no longer need storm water retention facilities. If the City looks at the 1.5 acre area as a future joint use site, he felt that this would trigger the master planning process. He indicated that the City would look at the detention facility as a possible future site for a public facility such as a fire station.

Ms. Flynn informed the Board that the project is in the schematic design phase and that there is still a lot of design work yet to be completed that would define the process and the surplus land that would be made available. As it currently stands, the surplus property available is ½ acre. She said that the detention facilities are located on the site adjacent to the railroad tracks partly because of the way the site drains and where the drainage capability is for the site. This is coupled with the fact that the CEQA analysis has shown that the draft EIR is reflecting that there are parking impacts to the site. A mitigation for this is to retain the entire site to mitigate the parking impact. This has placed the County in a position that it cannot determine whether there will be any surplus acreage available to offer the City until the CEQA process is completed. She indicated that the CEQA process is scheduled to be completed in May 2003. She said that the County plans to proceed with the design development process in order to keep the project on track and on schedule.

Vice-chair Chang said that it was pointed out to her that it is not clear where the courthouse would be connected to the downtown.

Ms. Flynn said that it is envisioned that there would be a connection at the northwest corner of the site to allow connection to the park and ride lot and that it was her understanding that there would be the installation of a pedestrian crossing in the future to connect this area to the downtown. She said that the schematic design would be presented to the Agency Board for review and comment. She said that the agreement with the City calls for the County to present the exterior elevation designs for comments as well as the site plan. She stated that the County is anxious to be able to accommodate the objectives for this project. She indicated that the schematic design has been completed, noting that they would be presented to the City soon.

Chairman Kennedy noted that the schematic design and the site design have not been presented to City staff for its review. He stated that the County and the City are not working together on this project and felt that this needs to occur as this is a major facility in the Morgan Hill community. He felt that the County and City are getting started on the wrong foot and that both agencies need to get back on track. He requested that the location of the storm water detention facility be

discussed with City staff to see if this area can be used as a location for a future fire station so that it can be made an option. He said that the City needs to review the site plan for this effort. He said that the pedestrian access to the downtown, across the pedestrian railroad crossing, needs to be addressed. Also, the orientation of the building(s) does not seem to fit the City's plans. It appears that the County is ignoring the attachment A design criteria that the County agreed to as part of its agreement with the City. He felt that all of these issues need to be addressed.

Ms. Flynn said that it was important to note that the schematic design process did not conclude until the end of January. She indicated that the County had two schemes prepared as part of the schematic design and that it had to make a decision on which scheme to move forward with. She stated that the County did not have a final schematic design to present to the City, noting that one is now completed (Scheme B). She said that the County would be interested in any comments that the City may have on the facility and that these comments would be carried into the design development.

Agency Member Sellers said that the Agency Board is anxious to tie in the facility not only in terms of pedestrian access to the downtown but the courthouse structure as well. He felt that the size and the scope of the facility would impact the downtown and how it is viewed. He said that the Agency Board was anxious that the design incorporate this as well. He recommended a process by which the Agency Board can be directly involved not only at a staff level but at the elected official level as this facility is too important of a project for this community for the Agency Board to allow this facility to move forward without addressing the concerns identified.

Ms. Flynn indicated that the County conducts monthly status meetings and encouraged City participation at these meetings. There is a design steering committee of which City staff is an active voting member. Also, a partnering process is in place for the entire project that commenced this past summer. She encouraged the City to participate through all three of these processes.

Agency Member Carr said that he was surprised by the size of the structure, noting that it has grown into an 80,000 square foot facility. He inquired whether the increase in size was attributed to the fact that the County believes that the need is greater?

Ms. Flynn responded that the process by which the facility grew was one that was identified during the programming process. She said that the programming identifies the needs and that these needs translate into a square footage and functional needs. It was during this process that the County realized that the spacing was greater than what was originally anticipated. She indicated that there were increases in support space that were not anticipated in earlier space planning analysis conducted for the facility. Other areas that increased in terms of space needs were the jury area, mechanical and electrical supports, etc. She informed the Agency Board that the architectural firm comes from Sonoma County.

Chairman Kennedy requested that the City be providing with samples of the architect's renderings or pictures of the courthouse work that they are conducting elsewhere.

Ms. Flynn stated that she would forward the request to the architectural firm and forward these

along with the elevations and the plans to staff.

Agency Member Carr encouraged County outreach to the neighborhood that will be adjacent to the courthouse (e.g., downtown and the residential neighborhood to the east).

Ms. Flynn stated that the County has contemplated conducting public meetings in order to allow the public to review the designs and offer comments. She said that County staff would discuss these meetings with City staff in order to determine the appropriate point in the design where City staff believes it would be beneficial to the community.

Agency Member Tate concurred with the other comments offered thus far by the Agency Board. He felt that the City was entering into a partnership with the County and that this was to be a joint effort. The City signed an agreement that gave the County every right to proceed in the manner they choose. He said that he has learned something in terms of what agreements the City signs in the future and that they reflect a better spirit of partnership. It was his hope that something can be done to get this project back on track, paying attention to the City's needs. He said that in reading the tone of the letter from the County, it implies that the City can comment on the project but that the courthouse would proceed in a manner that it chooses. He stated that this was disappointing to him.

Chairman Kennedy noted that the agreement calls for design review by the City. He felt that the County is proceeding inconsistent with the attachment to the agreement. He felt that the City has the legal right to stop what the County is doing.

Agency Counsel Leichter said that it was her understanding that the latest County letter talks about going through the CEQA process and that the CEQA process identified parking impacts that the County believes necessitates the use of the entire site along with the storm drainage issue. It was her belief that the letter referred to state and federal requirements as well as Morgan Hill requirements as they relate to storm drainage. She inquired whether the County intends to comply with Morgan Hill storm drainage requirements. She also inquired whether it was the County's position that a CEQA mitigation measure for parking would require it to retain the entire site and that it constitutes something which is necessary for the courthouse improvements even though the County could have adopted a statement of overriding consideration?

Ms. Flynn said that County plans to construct a storm drain facility to City standards. Regarding the second question, she indicated that she was not a legal expert and could not respond from a legal stand point as they relate to CEQA requirements. She said that it was her belief that the mitigation measures required as part of the CEQA process would be a requirement of the project. If there is a mitigation measure that would require use of the site for a mitigation purpose, this would be something that the County is obligated to do. She said that she was not aware whether the County has adopted a statement of overriding consideration and that she would need to check with County counsel on its legal obligations. Should the City believe that this is a position/direction it should take; the Agency Board can draft its request for County consideration. She said that County staff does not believe that it can make a determination on whether the site is larger than what is necessary for the courthouse project in its entirety given the fact that there is a

mitigation measure that is contained in the current draft EIR document. The mitigation measure is stating that the County needs to retain the entire site.

Agency Counsel Leichter said that it was envisioned that escrow would be open, the County and the City would engage in a joint planning process and that the County would not proceed with the CEQA review. However, the obligations in the agreement are contemporaneous with the CEQA review and that there would be consultation with the Agency about the space planning needs of the site. She felt that it was evident from Agency Board members' comments that the City does not believe that this obligation has been lived up to by the County and that consultation with the City has not taken place. She noted that the City has not had the opportunity to review the schematic design. She was unclear as to the County's position on what it means by consultation as stated in section 4 of the agreement.

Ms. Flynn encouraged the City to put in writing the areas of the agreement where it feels that the County has not complied. Correspondence should be directed to the County through the process as stated in the agreement.

Agency Counsel Leichter expressed concern with the disconnect between what seems to be happening in practicality in terms of the County's interpretation of its obligations under the agreement. She felt that this is evident by the fact that Ms. Flynn, as the project manager, is stating that the Agency Board should send its comments to the County Board of Supervisors. Yet, Ms. Flynn is appearing before the Agency Board to talk about the project. She felt that there is a greater level of communication and consultation that is required in the agreement than has been transpiring.

Ms. Flynn encouraged the City to communicate its concerns in writing to the County representative. The City can send the correspondence to her attention and that she would forward it to the appropriate parties as outlined in the agreement.

Executive Director Tewes said that it is clear that the courthouse cannot proceed until and unless the Redevelopment Agency enters into a lease agreement. He said that the City would not enter into a lease agreement until the Redevelopment Agency is assured that all the requirements have been met. He said that it was the intent and the spirit of the agreement that there would be consultation and an effort to try to meet both County and City interests, recognizing that the primary purpose of the project was to build a courthouse. He felt that it would be appropriate for the County and the City to engage in meaningful consultation instead of simply being invited to attend meetings.

Action: *Mayor Kennedy **agreed** to work with the Executive Director and Agency Counsel toward contacting the County Board of Supervisors about the Agency Board Members' concerns.*

City Council and Redevelopment Agency Action

PUBLIC HEARINGS:

27. LEASE WITH THE CALIFORNIA YOUTH SOCCER ASSOCIATION (CYSA) – Resolution No. 5640 and MHRA-242

Director of Business Assistance and Housing Services Toy presented the staff report.

Mayor/Chairman Kennedy inquired who would be responsible for the trees located outside of the fenced area, noting that several are dead and some are leaning/falling over. He felt that the dead trees need to be removed and new ones planted/maintained.

Mr. Toy said that he would need to consult the lease agreement to determine responsibility.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action: *On a motion by Council/Agency Member Sellers and seconded by Council/Agency Member Carr, the City Council/Agency Board unanimously (5-0), **Adopted** Resolution 5640 and Resolution MHRA-242 Approving a New Lease Agreement with the California Youth Soccer Association (CYSA) for the Property Located at 16545 Murphy Avenue.*

Action: *On a motion by Council/Agency Member Sellers and seconded by Council/Agency Member Carr, the City Council/Agency Board unanimously (5-0), **Directed** the City Manager/Executive Director to do Everything Necessary to Execute the New Lease Agreement.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

Identified this evening were: 1) status report on the ARB; police facility; and courthouse facility.

ADJOURNMENT

There being no further business, Mayor/Chairperson Kennedy adjourned the meeting at 9:37 p.m.

MINUTES RECORDED AND PREPARED BY

IRMA TORREZ, City Clerk/Agency Secretary